

ASSOCIATED CONTRACTORS OF NEW MEXICO (ACNM/AGC)

AND

NEW MEXICO OCCUPATIONAL HEALTH AND SAFETY BUREAU (NM OSHA)



HEAVY HIGHWAY CONSTRUCTION SAFETY PARTNERSHIP (H.H.C.S.P.)

I. Purpose and Scope

The purpose of this agreement is to encourage, acknowledge and assist New Mexico's heavy highway construction industry in their efforts to ensure a safe and healthful workplace for employees engaged in construction of our highways.

The New Mexico Occupational Health and Safety Bureau (NM OSHA) and the Associated Contractors of New Mexico (ACNM), mutually recognize the importance of providing a safe and healthful work environment for New Mexico's heavy highway construction workforce. To further advance our shared goal, we enter into a partnership that fosters mutual trust and respect for the respective roles of each organization in the heavy highway construction process.

This initiative represents a voluntary agreement and affords a partnership for voluntary compliance alternatives to the traditional NM OSHA enforcement activities. NM OSHA and ACNM believe that maintaining a focus on safety saves lives, time and dollars. The outcome of this focus can result in a reduction of employee injuries, illnesses, deaths, equipment damage, workers' compensation and insurance costs, down times and monetary penalties. The primary overall goal of this partnership is the protection of life, limb and property.

II. Specific Goals

- A. To reduce annually the severity and frequency rate of injuries, illnesses and fatalities affecting Participant Employers;
- B. To increase the number of heavy highway constructors who implement effective safety and health programs, including safety and health focused training for employees, supervisors and management;
- C. To increase the number of qualifying H.H.C.S.P. participants and their progression within the program;
- D. To decrease worker compensation, accident and regulatory penalty costs to participants; and,
- E. To improve the image of, and to increase the public's trust in, New Mexico's heavy highway construction industry.

III. Eligibility Requirements – Multi-Platform Program: RED, WHITE, BLUE

- A. Eligibility requirements for all applicants:
 - 1. Completion of the application packet including complete and accurate company information, statistical data from the contractor's OSHA 300 log and the self-evaluation checklist; and,
 - 2. A signed letter of commitment to workplace safety and participation in the partnership from the company owner or senior manager.
 - 3. Support documentation is required for verification but will be maintained by the contractor for review upon request by the Verification Committee.
- B. Requirements for applicants seeking entrance into the **RED** Platform Level:
 - 1. Develop and implement a written safety and health program;
 - 2. Implement a substance abuse program;
 - 3. Conduct and document weekly jobsite safety meetings; and,

4. Conduct and document site safety and health self-audits, correct deficiencies and communicate findings to employees.
- C. Requirements for applicants seeking entrance into the **WHITE** Platform Level:
1. Develop and implement a written safety and health program;
 2. Implement a substance abuse program;
 3. Assign at least one competent person (trained in OSHA 30-hour or equivalent), with responsibility for employee safety, to administer the program;
 4. Conduct and document weekly jobsite safety meetings;
 5. Ensure designated safety personnel are present at each site to conduct and document safety and health self-audits, correct deficiencies and communicate those findings to employees;
 6. Implement an equipment safety program including regular equipment inspections;
 7. Conduct new hire orientation safety and health program training and worksite specific hazard recognition and avoidance training;
 8. Conduct quarterly company safety meetings;
 9. Show evidence of employee involvement in the safety and health program (for example: participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training, safety committees and accident investigations);
 10. Provide field construction supervisory training equivalent to the OSHA 10-hour Construction Safety and Health course; and,
 11. Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate) at, or below, the national average for specific industrial classification (SIC/NAICS)
- D. Requirements for applicants seeking entrance into the **BLUE** Platform Level:
1. Ensure all contractors on the site, for which the Blue level participant has responsibility, use a written site-specific safety and health plan. If the subcontractor does

not have a program, they shall adopt and implement the program written by the participant contractor;

2. Implement a company substance abuse program and ensure all contractors on the site, for which the Blue level participant has responsibility, have substance abuse programs;
3. Assign a minimum of one competent person to administer the employer's safety and health program. This person must have attended the OSHA 500 Trainer Course for the Construction Industry or equivalent as deemed by the Verification Committee;
4. Designate site safety personnel who, through training and experience, must be able to recognize hazards associated with various phases of construction and shall have the authority to take prompt corrective action. (Training curriculum equivalent to the OSHA 30-Hour or OSHA 510 Construction Safety and Health training course will be deemed satisfactory.);
5. Ensure designated safety personnel are present at each site to conduct and document safety and health self-audits, correct deficiencies and communicate those findings to employees;
6. Conduct new hire orientation safety and health program training and worksite specific hazard recognition and avoidance training;
7. Conduct monthly company safety meetings;
8. Show evidence of employee involvement in the safety and health program (for example: participation in self-audits, site inspections, job hazard analyses, safety and health program reviews, safety training and accident investigations);
9. Implement a fall protection plan as applicable and required;
10. Implement a fleet safety program;
11. Implement an equipment safety program including regular equipment inspections;
12. Provide traffic control training for employees engaged in activities where such training would be deemed relevant;
13. Have no repeated serious or willful violations in the last three years;

14. Have no fatalities or catastrophes within the last three years that resulted in serious or willful citations related to the incident;
15. Provide updated lists of activities, when requested, to NM OSHA, through ACNM Program Administrator, for verification purposes; and, Maintain a Lost Workday
16. Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate) at, or below, the national average for specific industrial classification (SIC/NAICS).
17. Maintain an Experience Modification Rate at or below 1.00 and attain signatures from the employer's insurance carrier supporting the findings and recommending the employer for Blue Level status.

IV. Program Verification and Acceptance

- A. The ACNM is responsible for assuring the following program monitoring activities:
 1. All eligibility requirements from multi-platform applicants are received and reviewed by the Verification Committee;
 2. On-site verification inspections according to established protocols are conducted to ensure that the participating contractors meet program requirements and to validate the partnership program administration; and,
 - a. Verification inspection protocols for **RED, WHITE** and **BLUE** levels are as follows:
 - i. Perform an on-site verification inspection on at least one site for all prospective participants prior to designating them as having reached their desired platform.
 - ii. In addition, to the on-site verification inspections described above, the Verification Committee will perform an un-announced on-site verification inspection on at least one of each participant's work sites throughout the year.
 - iii. Verification results/records will be maintained by the ACNM Program Administrator for the length of the partnership and shall be available for review by NM OSHA when requested.

3. Termination of a participant's current status and re-designation to the appropriate status in the event the Verification Committee discovers, through an on-site verification inspection, information that significantly contradicts the representations made by the participant in its application.
- B. NM OSHA will ensure the following monitoring activities are performed:
1. Final acceptance for participant levels RED and WHITE;
 2. Once the participant has been identified by the Verification Committee as a BLUE Platform participant, the Committee will provide to NM OSHA for each participant:
 - a. The summary OSHA 300 A Log for the last three years and the total number of hours worked; and
 - b. A copy of the completed audit/evaluation forms used by the Verification Committee to verify BLUE level status.
 3. All BLUE Level Participant Contractors recognize that OSHA verification inspections are non-enforcement inspections not resulting in the issuance of citations. However, any observed violation must be corrected at the time of the verification or within the prescribed time frame.
 4. Prior to acceptance into the partnership by NM OSHA, each BLUE Platform participant will have the effectiveness of its safety and health program verified through at least one planned on-site comprehensive inspection by the NM OSHA representative with partnership oversight.
 - a. One on-site verification inspection will be conducted per 10 active projects or part thereof. For example, if a participant has 11 active jobsites at the time of their partnership application, a total of two verification inspections will be conducted.
 - b. NM OSHA understands that unannounced inspections may result in the absence of key personnel important to a full and fair evaluation. NM OSHA will cooperate to allow the participant to have such personnel participate in the inspection.
 - c. Once a participant is accepted into the partnership, NM OSHA will perform unannounced

on-site verification inspections on at least one of each BLUE participant's work sites throughout the year.

- d. NM OSHA will communicate recommendations for approval or level adjustment to the Verification Committee.
- e. Blue Level partners must re-apply and receive on-site verification inspections yearly to maintain partnership with NM OSHA and to be eligible for partnership incentives.

V. Program Confidentiality

Information submitted by contractors as part of the application or renewal process, as well as information obtained by virtue of the contractor's application or participation in the program, will be held in strict confidence within the confines of the partnership program. The information will be used only to measure the effectiveness of the partnership program.

VI. Incentives

- A. Upon acceptance from the Verification Committee and NM OSHA for **RED**, **WHITE** and **BLUE** Platform Levels, the following incentives are afforded to participants for approved levels.
 - 1. **RED** Platform Level:
 - a. RED level participants will not receive citations for non-serious violations provided the hazards are abated immediately.
 - 2. **WHITE** Platform Level:
 - a. WHITE level participants will be given a special recognition certificate from NM OSHA and ACNM designating the contractor as a participant in the ACNM H.H.C.S.P.
 - b. WHITE level participants will not receive citations for non-serious violations, provided the hazards are abated immediately.
 - c. WHITE level participants will be eligible to receive the maximum good faith penalty reductions currently available under NM OSHA policy.
 - 3. Inspections of RED and WHITE Platform Level Participants - With the exceptions noted above,

Programmed/Planned and Unprogrammed inspections of RED and WHITE Platform Level Participant contractors' sites will be conducted in accordance with established NM OSHA policy. Violations documented during such inspections may result in the issuance of citations and penalties.

4. **BLUE** Platform Level:

- a. Upon successful conclusion of a NM OSHA verification inspection, BLUE level participants will be given special recognition by NM OSHA and ACNM designating participant as a BLUE level participant in the ACNM H.H.C.S.P. This recognition will include the presentation of a certificate and one partnership banner. Additional banners may be purchased from the vendor through NM OSHA after a site verification visit. Sites displaying a partnership banner are expected to exceed the minimal acceptable safety and health standards.
- b. Following the NM OSHA verification inspection, BLUE level participant jobsites within the jurisdiction of NM OSHA will not receive another Programmed inspection within the next twelve (12) months.
- c. BLUE level participants will receive Unprogrammed inspections only in response to reports of imminent danger, formal complaints, fatalities or catastrophes. NM OSHA will use phone or fax to handle all complaints other than those involving serious injuries. When an inspection of a non-formal complaint is deemed necessary, a copy of the complaint will be provided to the safety director or other designated representative at the time of the inspection.
- d. BLUE level participants will not receive citations for non-serious violations, provided the hazards are corrected immediately.
- e. BLUE level participants will be eligible to receive the maximum good faith penalty reductions currently available under NM OSHA policy.
- f. BLUE level participants whose program has been previously verified by NM OSHA will not be included in the inspection unless the compliance officer documents that the participant is responsible for any employee exposure to hazards

such as falls, struck by, caught in/between or electrical hazards.

VII. Partnership Management and Evaluation

- A. The partnership will be evaluated annually to determine whether the annual goals are being met. ACNM is responsible for collating baseline and annual performance data upon which the partnership will be measured. This information will be reported to NM OSHA.
- B. It is the responsibility of the ACNM Program Administrator to gather required participant data for evaluation of the overall success of the program. The following aggregate data will be reported to NM OSHA:
 - 1. A complete updated list of RED, WHITE and BLUE participants;
 - 2. The number of participants involved in mentoring Member Employers;
 - 3. Participant's OSHA 300 Total Case Incident Rate for Injuries and Illnesses (TCIR), Days Away from Work, Restricted Work Activity, and/or Job Transfer Rate (DART Rate), and Workers' Compensation Experience Modification Rates (EMOD/EMR). (This data will be compared with the most recent published BLS data to determine if goals have been met); and,
 - 4. The number of safety and health related training sessions conducted and the number of employees, supervisors and managers trained.

VIII. Terms

- A. This agreement will terminate three years from the date of signing. If any signatory of this agreement wishes to terminate its participation prior to the established termination date, written notice of the intent to withdraw must be provided to all other signatories.
- B. If NM OSHA chooses to withdraw its participation in the partnership, the entire agreement is terminated. Either party may also propose modification or amendment of the agreement.
- C. For non-signatory participants of this strategic partnership, NM OSHA may terminate the participant's involvement at any time with written notice. Additionally, the participant may withdraw its participation from the strategic partnership at any time with a written notice of the intent to withdraw to NM OSHA.

- D. The overall partnership for all level participants shall have an initial term of three years and may be renewed if all signatories concur.
1. **RED** Level Participants are expected to reach the next participant level within two years of acceptance into the partnership. In the event a participant is unable to reach the next participant level in the prescribed time frames, an extension, not exceeding one year, may be granted by the Verification Committee. Participants requesting an extension must submit a written request, complete with a detailed action plan for reaching the next participant level.
 2. **WHITE** Level Participants are expected to reach the next participation level within two years of acceptance into the partnership. In the event a participant is unable to reach the next participant level in the prescribed time frames, an extension, not exceeding one year, may be granted by the Verification Committee. Participants requesting an extension must submit a written request, complete with a detailed action plan for reaching the next participant level.
 3. Individual **BLUE** level participants must have their programs verified each year to remain eligible for incentives.
- E. Partnership criteria may be revised during the course of the partnership based on recommendations for continuous improvement. All signatory partners must agree to any revisions to the partnership.

IX. Employee and Employer Rights

This partnership does not preclude employees and/or employers from exercising any right provided under the New Mexico Occupational Health and Safety Act, nor does it abrogate any responsibility to comply with rules and regulations adopted pursuant to the Act.

X. Contractor Termination

- A. A contractor's participation may be terminated by the Verification Committee or NM OSHA, if any of the following occurs:
1. An inspection by the Verification Committee reveals a significant deviation from program criteria;
 2. The contractor has falsified information on the application or supporting records;

3. The contractor's annual Lost Workday Incidence Rate rises above the national average;
 4. The contractor takes other such actions inconsistent with the goals and intent of this program that may be determined to be grounds for termination by ACNM.
- B. Prior to final termination of a contractor's participation:
1. The contractor will be notified in writing of the intent to terminate;
 2. The notice will include an explanation of the reasons for termination;
 3. The contractor will have an opportunity to reply to the written notice within a period of thirty (30) days with a detailed action plan; and,
 4. The contractor will have the right to appear before the Verification Committee and NM OSHA to present arguments as to why its participation should not be terminated.
- C. The Verification Committee has the authority to reinstate the contractor if it is determined that the contractor's experience was unusual and not necessarily inconsistent with a sound safety and health program. In this event, where a contractor is at the BLUE level, NM OSHA may conduct another verification inspection.
- D. Any contractor may terminate its participation in the program at any time.
- E. NM OSHA may terminate the partnership with any individual contractor at any time via notification in writing. However, the observation by NM OSHA from any public place of an imminent danger situation resulting in the issuance of a citation will result in the immediate suspension of any partnership with that contractor. NM OSHA's final decision on the status of the partnership with this contractor will take into account the recommendations of the Verification Committee.

XI. Partnership Participant Annual Renewal

- A. Once accepted into the partnership by all parties, contractor incentives will be effective for one year.
- B. Contractors must re-apply annually to maintain participation and status in the partnership program.


1. The re-application and acceptance process will be identical to the process stated in Section III.
2. Contractors seeking re-application must do so sixty (60) days prior to the expiration date of their current partnership agreement. Failure to re-apply within the sixty (60) day period will result in forfeiture of all incentives until all requirements of the partnership are fulfilled and accepted by ACNM and NM OSHA.

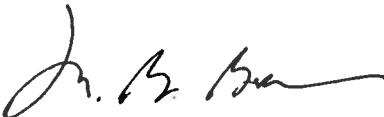
XII. Agreement Signing


This agreement shall remain in effect until _____, 2011, or until it is superseded by a new agreement, whichever comes first. Upon mutual agreement, the parties may amend the terms of this agreement prior to its expiration.

Agreed to this 28th day of September, 2009


Butch Tongate
Bureau Chief
NM OSHA


Gray Kite
ACNM President


Mike Gibson
ACNM Executive Director


Jay Myers
ACNM Safety Committee Chair